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Chairman: Mr. Butagira ..... (Uganda)

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The meeting was called to order at 3.10 p.m.

Agenda item 71: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/60/L.24 and L.26)

Draft resolution A/C.3/60/L.26: International Covenants on human rights

1. **Mr. Makarowski** (Sweden) introduced the draft resolution on behalf of the original sponsors, including the Nordic countries, and said that the text was very similar to the one adopted on the same subject two years before but contained some new elements. Paragraph 2 now contained a reference to the new States parties to the International Covenants and Protocols; paragraph 5 referred to the mandate of the new Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; paragraph 6, dealing with the derogation from human rights obligations, had been modified to bring the language into line with recent developments in the Commission on Human Rights; paragraph 23 referred to the open-ended working group of the Commission on Human Rights and, as in the previous resolution, encouraged all parties to participate actively in its work; and paragraph 27 no longer asked the Secretary-General for a report of the status of the Covenants and Optional Protocols, but requested him to keep the General Assembly informed of the status of the relevant instruments, including all reservations and declarations, through the United Nations websites.

2. Despite all efforts, a small number of issues remained outstanding, but discussions would continue with the delegations that had expressed concerns about the current text in order to find solutions satisfactory to everyone. He hoped that the draft resolution would be adopted by consensus.

3. **Mr. Khane** (Secretary of the Committee) announced that El Salvador and the Republic of Moldova had become sponsors of the draft resolution.

Draft resolution A/C.3/60/L.24: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

4. **The Chairman** said that the draft resolution contained no programme-budget implications.

5. **Mr. Muñoz** (Chile), speaking on behalf of the original sponsors and those announced at the 29th meeting, said that the Basic Principles and Guidelines were not legally binding but rather identified mechanisms and procedures for the effective implementation of existing legal obligations under international human rights law and international humanitarian law. They would serve as a guide and useful tool for victims and their representatives, as well as for States in the design and implementation of their own public policies on reparations. They were sufficiently flexible to leave a wide margin for manoeuvre in their implementation by States.

6. In the past, the main focus of the international community had tended to be on those who committed violations, and victims had been overlooked. The Basic Principles and Guidelines specifically provided that the resources to which the victims were entitled included not only access to justice but also to reparations, which could take various forms. The primary objective of reparation was to restore dignity to the victims, which was the only sound basis for building a just and democratic society. The sponsors were confident that the adoption of the Basic Principles and Guidelines would constitute a milestone in the fight against impunity by stressing the principle of accountability for violations of international human rights law and international humanitarian law. They hoped that the draft resolution would be adopted by consensus.

7. **Mr. Khane** (Secretary of the Committee) announced that Albania, Armenia, Croatia, the Dominican Republic, Haiti, Iceland, Japan, Kenya, Liechtenstein, Luxembourg, Monaco, Sierra Leone, the former Yugoslav Republic of Macedonia and Venezuela (Bolivarian Republic of) had also joined the sponsors.

8. **The Chairman** invited delegations that wished to explain their position on the draft resolution to do so.

9. **Mr. Manhotra** (India) said that his country was considering the introduction of provisions pertaining to

the right of remedy and the right to reparations for victims of human rights violations.

10. **Ms. Kohli** (Switzerland) said that the Basic Principles and Guidelines marked a step forward in the area of human rights and were the culmination of long and difficult work.

11. **Mr. Bertoux** (France) said that the issue of impunity of human rights violators had long been of interest to his delegation. The Basic Principles and Guidelines were the result of 15 years' work and made a clear distinction between human rights and humanitarian law while respecting the specific nature of each category of law. Although they took account of international law, including the International Criminal Court, they did not go beyond the obligations of each State to the treaties it had freely ratified, and they gave States a wide margin of manoeuvre to attain the stated objectives. From a legal standpoint, the principles broke new ground because they gave a concise list of the obligations of the actors concerned in the event of human rights and humanitarian law violations. They also reflected a change in perspective, concentrating rather on the victims than the State.

12. **Mr. Artucio** (Uruguay), speaking on behalf of the Southern Common Market (MERCOSUR), said that the Basic Principles and Guidelines allowed Member States to clarify the scope of the right of victims to reparations and to identify the mechanisms to facilitate implementation of their current international obligations. They did not create new obligations and many States in the region had already used them as a guide for initiatives and policies.

13. **Ms. Hart** (Canada) said that her country welcomed the fact that the Basic Principles and Guidelines had incorporated a victim-oriented perspective. Without creating new international or domestic legal obligations, they provided a helpful guide to States regarding existing modalities for the implementation of existing legal obligations under international human rights and humanitarian law. Changes had been made to the text in order to clarify that there was no right to a remedy for acts that had not been violations of international law at the time they occurred.

14. **Ms. Zack** (United States of America) said that the non-binding instrument in question embodied respect for the rule of law and the principle of accountability for gross human rights violations and serious violations of the law of armed conflict. The document was an important statement condemning impunity and underscoring the importance of righting legal wrongs, and it therefore merited support. With respect to the fifth preambular paragraph of the Basic Principles and Guidelines, the United States would have preferred language highlighting that non-States parties to the Rome Statute of the International Criminal Court had no legal obligations in connection with that treaty, unless otherwise directed by the Security Council. That said, her delegation noted the important provision recognizing that international human rights law and international humanitarian law were separate bodies of law and the provision stating that the Basic Principles and Guidelines were without prejudice to special rules of international law (para. 26). Her delegation also wished to underscore that the Basic Principles and Guidelines created no legal obligations and were phrased in such a way as to provide States with wide flexibility regarding modalities and mechanisms for implementing existing international law obligations applicable to each State.

15. **Mr. Montwedi** (South Africa) welcomed the Basic Principles and Guidelines, which were long overdue. His delegation recognized that international human rights law was premised on the principle of protection and on the notion that where violations did occur there must be adequate remedies for the victims. Most of the provisions contained in the Basic Principles and Guidelines had already been incorporated into South Africa's domestic legislation; his Government would work hard to assimilate the rest. The Basic Principles and Guidelines would greatly contribute to combating impunity for grave human rights violations, and it was therefore gratifying that the draft resolution was very likely to be adopted by consensus.

16. **Ms. Dempster** (New Zealand) emphasized that the Basic Principles and Guidelines did not create any new international or domestic legal obligations, were non-binding and would not introduce any new principles of international law. Her delegation was nonetheless convinced that they would be a valuable reference for States and therefore welcomed their adoption.

17. *Draft resolution A/C.3/60/L.24 was adopted.*

18. **Ms. Beinhoff** (Germany) said that her Government continued to attach the highest political

importance to the issue of reparation. However, even if not breaking the consensus, it wished to uphold the views it had expressed in its explanation of vote at the sixty-first session of the Commission on Human Rights.

19. **Ms. Mortenson** (United Kingdom) said that the United Kingdom had been pleased to sponsor the draft resolution, but wished to make a statement concerning its understanding of the text. In his report on the third consultative meeting (contained in E/CN.4/2005/59), the Chairperson-Rapporteur had made it clear that the revised Principles and Guidelines did not introduce new principles of international law (ibid., para. 10). His interpretation was clearly correct: the Principles and Guidelines were not legally binding and did not create any new obligations on States in international law. Her delegation was nonetheless convinced that the Basic Principles and Guidelines would be an extremely valuable tool for States when they were considering policies on remedies and reparation, and it therefore welcomed their adoption.

20. **Mr. Muñoz** (Chile) thanked all those delegations that had supported the draft resolution, which was so important for human rights. It had been a very long but participatory and transparent process that had involved Member States, experts, non-governmental organizations and other international organizations. The Basic Principles and Guidelines, which he agreed were long overdue, would be a very useful tool in preventing impunity and promoting human rights, and he therefore welcomed the consensus reached.

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/60/L.28, L.30, L.34-L.37, L.40, L.44 and L.58)

Draft resolution A/C.3/60/L.34: Human rights and unilateral coercive measures

21. **Mr. Mohd Radzi** (Malaysia), introducing the draft resolution on behalf of the States members of the Non-Aligned Movement and China, said that certain States continued to take unilateral coercive measures contrary to international law and the Charter of the United Nations. Such measures had negative repercussions for developing countries and created additional obstacles to the full enjoyment of human rights. They also created obstacles to trade relations among States, impeded the full realization of social and economic development and hindered the well-being of the population in the affected countries, with particular consequences for women, children, adolescents and the elderly.

Draft resolution A/C.3/60/L.35: Enhancement of international cooperation in the field of human rights

22. **Mr. Mohd Radzi** (Malaysia), introducing the draft resolution on behalf of the States members of the Non-Aligned Movement and China, said that the resolution had always enjoyed consensus, and he hoped that would continue to be the case.

Draft resolution A/C.3/60/L.36: The right to development

23. **Mr. Mohd Radzi** (Malaysia), introduced the draft resolution on behalf of the States members of the Non-Aligned Movement and China, which remained committed to the promotion of the right to development.

Draft resolution A/C.3/60/L.37: Protection of human rights and fundamental freedoms while countering terrorism

24. **Mr. Gómez Robledo** (Mexico), introducing the draft resolution on behalf of the original sponsors and also Canada, Costa Rica, Croatia, Ecuador, Liechtenstein, Lithuania, Malta and Poland, said that terrorism was a serious problem for the territorial integrity and security of States. However, the obligation of States to protect their populations did not justify the derogation from or suspension of the human rights of those under their jurisdiction. Respect for and promotion of human rights should be an essential part of any administrative measure or legislation to combat terrorism. Any violations of human rights were counterproductive. He welcomed the new mandate of the Special Rapporteur on the promotion and protection of human rights while countering terrorism.

25. **Mr. Khane** (Secretary of the Committee) said that Albania, Bulgaria, Denmark, the Dominican Republic, Estonia, Georgia, Greece, Guinea, Hungary, Jordan, Kenya, Latvia, Madagascar, Nigeria, the Republic of Moldova, Romania, the former Yugoslav Republic of Macedonia, Timor-Leste and Ukraine had also joined the sponsors.

Draft resolution A/C.3/60/L.44: Human rights mainstreaming in the United Nations system

26. **Mr. Majoor** (Netherlands), introducing the draft resolution on behalf of Belgium and the original sponsors and also New Zealand, Peru, Switzerland and Turkey, said that the draft resolution had three main objectives: to increase awareness of human rights as one of the three main pillars of the United Nations system and as a factor to be taken into consideration throughout the work of the United Nations; to appraise ongoing developments in the field of human rights mainstreaming within the United Nations system and identify possible gaps by requesting the Secretary-General to submit a report at the sixty-first session; and to stimulate the sharing of knowledge and experience with a view to explaining how human rights mainstreaming in the work of the United Nations contributed to a more developed and safer world. He hoped that the resolution would not only be adopted by consensus but also with the broadest possible support.

27. **Mr. Khane** (Secretary of the Committee) said that Angola, Bosnia and Herzegovina, the Congo, Georgia, Guatemala, Honduras, Lesotho, Madagascar, Panama and Ukraine had joined in sponsoring the draft resolution.

Draft resolution A/C.3/60/L.28: Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

28. **The Chairman** drew the Committee's attention to the statement of programme budget implications of the draft resolution contained in A/C.3/60/L.58.

29. **Mr. Khane** (Secretary of the Committee) recalled that, when introducing the draft resolution at the Committee's 33rd meeting, the representative of Mexico had orally revised its third preambular paragraph.

30. **Mr. Gómez Robledo** (Mexico), speaking on behalf of the sponsors, said that his delegation hoped that, by the same time the following year, the Committee would be adopting a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. He announced that the following countries had joined in sponsoring the draft resolution: Austria, Belgium, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Hungary, Italy, Lebanon, the Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, Norway, Paraguay, Poland, Romania, Slovakia, Spain, Sweden and Uruguay. He hoped that the draft resolution would be adopted by consensus.

31. **Mr. Khane** (Secretary of the Committee) announced that the following countries also wished to join in sponsoring the draft resolution: Albania, Andorra, Australia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Côte d'Ivoire, the Democratic People's Republic of Korea, Georgia, Germany, Ghana, Greece, Iceland, Iraq, Ireland, Latvia, Lesotho, Liechtenstein, Madagascar, Malawi, Portugal, the Republic of Moldova, Serbia and Montenegro, Sierra Leone, Slovenia, the Sudan, Uganda, Ukraine, the United Kingdom, the United Republic of Tanzania, Zambia and Zimbabwe.

32. **Ms. Shestack** (United States of America) said that the United States was pleased to join consensus on the draft resolution. The United States was demonstrably committed to the human rights of persons with disabilities, as seen in its domestic legislation, and continued to believe that strong domestic legislation was the most effective means to advance the human rights of such persons. Still, it recognized the work being conducted in the Ad Hoc Committee, had cooperated constructively with that Committee and looked forward to continuing cooperation during upcoming negotiations. Her delegation was pleased that negotiations were to be conducted largely within existing resources. However, treaty negotiations should be kept entirely within existing resources and within a reasonable time schedule. The five-week negotiating programme called for in the draft resolution (para. 4) did not comport with the objective that treaty negotiations should be well-paced, deliberate and unhurried, with no artificial deadlines and ample time for inter-agency consultations and preparation within capitals. The United States was nonetheless pleased to join other Member States in adopting the draft resolution by consensus.

33. *Draft resolution A/C.3/60/L.28, as orally revised, was adopted.*

Draft resolution A/C.3/60/L.30: Subregional Centre for Human Rights and Democracy in Central Africa

34. **Mr. Khane** (Secretary of the Committee) said that the activities called for in paragraph 3 of the draft resolution would not entail any additional appropriation, as they could be absorbed within section 24, Human rights, for the biennium 2004-2005 and section 23, Human rights, of the proposed budget for the biennium 2006-2007. He also drew the Committee's attention to section VI of General Assembly resolution 45/248 B of 21 December 1990, which reaffirmed that the Fifth Committee was the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters and reaffirmed also the role of the Advisory Committee on Administrative and Budgetary Questions.

35. **Ms. Mahouvé Same** (Cameroon), speaking on behalf of the Economic Community of Central African States, said that Belgium, France, Germany, Italy, Sierra Leone, the United Republic of Tanzania and the United States of America had also joined in sponsoring the draft resolution, which she hoped would be adopted by consensus.

36. **Mr. Khane** (Secretary of the Committee) announced that Burkina Faso, Ethiopia, the Gambia, India, Lesotho and Qatar also wished to sponsor the draft resolution.

37. *Draft resolution A/C.3/60/L.30 was adopted.*

38. **Ms. García-Matos** (Bolivarian Republic of Venezuela), explaining her delegation's position on the draft resolution, reiterated her Government's support for the Subregional Centre for Human Rights and Democracy in Central Africa and its commitment to the people of Africa. In that regard, a cultural festival would be held in Caracas later in the month which it was hoped would strengthen the ties between Venezuela and African nations. One of the festival's objectives was to promote the signature of cooperation agreements, twinning arrangements and friendship groups between Venezuelan and African parliamentarians. Her delegation therefore supported the draft resolution. However, in line with the position maintained throughout the current Assembly, it wished to express its reservations concerning the eighth preambular paragraph, which welcomed the 2005 World Summit Outcome (resolution 60/1). As stated at previous meetings, that document had no mandate or obligation whatsoever for her country.

Draft resolution A/C.3/60/L.40: Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

39. **Mr. Khane** (Secretary of the Committee) said that the activities called for in paragraph 15 of the draft resolution would not entail any additional appropriation, as they could be absorbed within section 24, Human rights, for the biennium 2004-2005 and section 23, Human rights, of the proposed budget for the biennium 2006-2007. He also drew the Committee's attention to section VI of General Assembly resolution 45/248 B of 21 December 1990, which reaffirmed that the Fifth Committee was the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters and reaffirmed also the role of the Advisory Committee on Administrative and Budgetary Questions.

40. **Ms. Ajamay** (Norway), speaking on behalf of the original sponsors, said that Andorra, Armenia, Bosnia and Herzegovina, Bulgaria, the Dominican Republic, Ecuador, Georgia, Guinea-Bissau, Kenya, Morocco, Palau, Senegal, Timor-Leste, Thailand and Uruguay had joined in sponsoring the draft resolution.

41. Following extensive consultations, the following oral revisions had been made: the eighth preambular paragraph should read "recognizing the substantial role that human rights defenders can play in supporting peace through dialogue, openness, participation and justice, including by monitoring and reporting on human rights;"; in the fourteenth preambular paragraph, the phrase "and reaffirming that national legislation consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights defenders conduct their activities" should be inserted after the words "with the State"; paragraph 9 should now read: "*Calls upon* Governments to give serious consideration to responding favourably to the requests of the Special Representative to visit their countries, and urges them to enter into a constructive dialogue with the Special Representative with respect to the follow-up and implementation of her recommendations, so as to enable her to fulfil her

mandate even more effectively", in line with paragraph 11 of resolution 59/192; and paragraph 13 should now read: "*Invites* relevant United Nations bodies, including at the country level, within their mandates and working in cooperation with States, to give due consideration to the Declaration and to the reports of the Special Representative, and requests the Office of the United Nations High Commissioner for Human Rights to draw the attention of all relevant United Nations bodies, including at the country level, to the reports of the Special Representative", in line with paragraph 16 of resolution 59/192.

42. **Mr. Khane** (Secretary of the Committee) announced that the Congo, the Republic of Moldova, Sierra Leone and Ukraine also wished to sponsor the draft resolution.

43. *Draft resolution A/C.3/60/L.40, as orally revised, was adopted.*

44. **Ms. Halabi** (Syrian Arab Republic), explaining her delegation's position on the draft resolution, said that her delegation had joined the consensus. However, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (annexed to resolution 53/144) made it imperative for States not to interfere in the internal affairs of other States and not to be selective, in accordance with the Charter of the United Nations. Moreover, it established not only rights but also responsibilities for non-governmental organizations. In that regard, non-governmental organizations should avoid discrimination. Regarding the right to communicate with non-governmental organizations, such organizations should be established in accordance with national laws. Any other understanding would be unacceptable to her delegation. Her delegation also regretted that a greater emphasis was placed on the right than on the responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms, as the balance and objective of the draft resolution was greatly affected as a result.

The meeting rose at 4.40 p.m.